

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JACKSON BARROS,)	
Petitioner,)	CIVIL ACTION NO.
)	05-10623-DPW
v.)	
)	
UNITED STATES OF AMERICA,)	
Respondent.)	

MEMORANDUM AND ORDER
November 1, 2005

The petitioner moves under 28 U.S.C. § 2255 for resentencing on a judgment entered after his plea without a plea agreement. The Judgment became final on December 10, 2003. The instant motion was filed March 25, 2005. As a consequence, the motion is beyond the one-year limitation period for § 2255 petitions and must be dismissed.

There is no indication that the First Circuit would view any of the proported bases for relief asserted by the petitioner to provide grounds for relaxation of the timeliness requirements of § 2255 because none of the cases referred to have been held to apply retroactively. See, e.g., McGonagle v. United States, 137 Fed. Appx. 373, 380 (1st Cir. 2005) ("it is doubtful Crawford applies retroactively to cases on collateral review"); United States v. Fraser, 407 F.3d 9, 11 (1st Cir. 2005) ("This court has held that petitions under 28 U.S.C. § 2255 are unavailable to advance Booker claims in the absence of a Supreme Court decision rendering Booker retroactive."); Sustache-Rivera v. United States, 221 F.3d 8, 15 (1st Cir. 2000) (Jones/Appendi rule not determined to be retroactive).

The clerk is directed to DISMISS this action.

/s/ Douglas P. Woodlock

DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE